

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Rudy Fleming

(In the space above, enter the full name(s) of the plaintiff(s).)

-against-

Mr. E. Santana

John Doe

John Doe

John Doe

Jane Doe

Jane Doe

Jane Doe

Jane Doe

Jane Doe

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identified to those contained in Part I. No Addresses should be included here.)

I. Parties in this complaint:

A List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Rudy Fleming
ID # 07A0122
Current Institution Sullivan Correctional Facility
Address P.O.Box 116
Fallsburg, New York 12733-0116

B List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Mr. E. Santana Shield #
Where Currently Employed Sullivan Correctional Facility
Address P.O.Box 116
Fallsburg, New York 12733-0116

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. §1983
(Prisoner Complaint)

Jury Trial: Yes No
(check one)

18CV3321

Defendant No. 2 Name John Doe Shield # _____
 Where Currently Employed Sullivan Correctional Facility
 Address P.O.Box 116
Fallsburg, New York 12733-0116

Defendant No. 3 Name John Doe Shield # _____
 Where Currently Employed Sullivan Correctional Facility
 Address P.O.Box 116
Fallsburg, New York 12733-0116

Defendant No. 4 Name John Doe Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5 Name Jane Doe Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the event rise to your claim(s) occur?

Sullivan Correctional Facility, E-North block, I.C.P.
program 240 cell.

B. Where in the institution did the events giving rise to your claim(s) occur?

On the East side of the block in 240 cell morning
shift

C. What date and approximate time did the events giving rise to your claim(s) occur?

On 4/15/15 on the time between 9:20am to 9:55am
coming from medication.

D. Facts: I was escorted to medication by C.O. E. Santana, while being on Keep lock over his tick kit. He started making hot dogs' comments toward me. I did not respond, but felt violated and disrespected. As I was heading to my cell.

My cell door did not close. C.O. E. Santana came up the E-side stairs of the block and asked me "What in your hands?" →

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

(Witness) Antonio McClemere #01B1676

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. Plaintiff suffered mental anguish and pains; with emotional injuries devastating to psychological and emotional well-being from extreme nervousness, multiple vomiting thinking about the abuse, headaches, crying from shame, emotional shock; no appetite losing 34 pounds; difficulty sleeping, nightmares, and lack of energy from taking medications of Wellbutrin 300mg and Zyprexa 15mg from going to Marcy C.N.Y.P.C. hospital.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes No _____

- Facts: continuing

I open my hands and said "nothing", he said what in your pockets - get on the Fucking wall? Pointing to the wall in my cell and pushed me up against the wall. He said to me "I'll fucking drop you if you move". I felt nervous and scared being what happen to an inmate who was assaulted and killed by CP's two days' prior to my incident.

I had a whole in my pants from working. Mr. E. Santana pull my pants up, then put his hand in my inner theyes. His rubber glove finger went in between my legs, and I felt his finger touching and moving my genitals with force, pulling my pubic hairs; and then he penetrated and hook my anal with his finger, feeling the pain from me standing on my toes. After he was finish he told me to "go sit on your fucking bed" in a low tone. I complied with the order. Officer E. Santana violated my Eighth Amendment Right by Sexually abusing me subjecting me to Cruel and Unusual Punishment with having a witness name Antonio McClemere #0IB9676 of the day of the sexual abuse (4/15/15), with physical DNA glove evidence that I sent home, and told O.S.I. staff's that now they have in their possession for testing. I found out that I wasn't the only one Mr. E. Santana sexually abuse in his past within this facility from a inmate "Hodges". Regarding me being help. Because of my lack of reading and writing skills, I was help with this complaint and forms by Thomas Fields #1042057. A copy of my Psychological testing I.Q. at C.N.Y.P.C. is Attached.

Core History

43 Central New York Psychiatric Center

Patient's Name:	FLEMING, RUDY	State ID:	3016828
Case Number:	266423	Gender:	Male
DOB:	06/23/1985	DIN:	07-A-0122
Admission Screening Date:	04/06/2010		

Unit: 201 Inpatient Ward 201

receiving SSI and SSD. UPDATE 5/29/07 No change. 5/21/08 UPDATE No change.

ANNUAL UPDATE CNYPC INPATIENT 4.13.2011:

Recent Psychological testing at CNYPC completed by Dr. David Stang on 2.17.11 indicated "results yielded a full scale IQ of 48, which is within the low moderately retarded range. His extremely low Full-scale IQ score was partly due to extremely low Processing Speed Index score of 50. When a General Ability Index score of 53 was established, which reflects a composite score of verbal comprehension and perceptual reasoning, it can be concluded that his higher level intellectual abilities of verbal comprehension and perceptual reasoning are within the low mild to upper moderately retarded range."

F. Family History/Living Arrangement/Interpersonal Relationships

Pt lived with his sister for some time until she was evicted. He then lived with his uncle. Pt never lived alone. He went grocery shopping with his niece who is 18 years old to help him with money. Mr. Fleming had visits with his niece while at Rikers Island. He has not had any family contact since he transferred. He was raised by his mother and father with his 3 sisters and 1 brother. He reports positive relationships with them. UPDATE 5/29/07 No change. 5/21/08 UPDATE No change.

He is in regular contact with his niece Shanique Hamlin 347 981 8636. and sister Rhodesia Hamlin 347 962 6933. He worries about them and sees them as his primary support.

UPDATE - CNYPC - INPATIENT 4.12.2010:

Mr. Fleming indicate he has family members that are supportive.

ANNUAL UPDATE CNYPC INPATIENT 4.13.2011:

Mr. Fleming has regular contact with his brother, sister-in-law, sister and Neice.

G. Abuse/Neglect/Trauma/History

Pt denies any abuse and/or neglect.

DOES THE PATIENT HAVE A KNOWN HISTORY OF PHYSICAL ABUSE(e.g. hit, punches, slapped, burned, threatened with object or weapon, etc.?)

Yes No Patient is not willing to discuss.

If yes, Childhood? Adolescence? Adulthood? at present?

By whom: stranger acquaintance partner/spouse parents
 other family member ritual abuse

DOSE THE PATIENT HAVE A KNOWN HISTORY OF BEING NEGLECTED WHEN THEY WERE A CHILD (e.g., basic needs not met regarding nutrition, physical care, emotional needs, etc.)?

Yes No Patient is not willing to discuss.

If yes, describe:

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Sullivan Corr. Facility, E-North - 240 cell.

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes No _____ Do Not Know _____

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes _____ No _____ Do Not Know _____

If YES, which claim(s)? _____

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes _____ No

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes No _____

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Auburn Correctional Facility around late June. Being help.

1. Which claim(s) in this complaint did you grieve? Being sexually abuse by C.O.

Mr. F. Santana

2. What was the result, if any? Being interview by a lieutenant early July 2017 in Auburn Corr. Facility. He never got back to me.

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. Non, because I was transfer back to Sullivan Corr. Facility fearing for my safety and not having any help.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: At that time being in fear of retaliations, and lack of reading and writing disabilities. And still in fear of retaliations being back in this facility (Sullivan).

2. If you did not file a grievance but informed any officials of your claim, state who you informed,

when and how, and their response, if any: *I made my first verbal complaint to Prez hotline in regards to sexual abuse (to #77), to a female detective "Jane Doe" on 5/21/15, not taking my complaint seriously. I spoke to a man from O.S.I. name D. Eastman on 12/2/15 saying "I was abusing the hotline", from me looking for back sheet →*

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. _____

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). *Plaintiff would like the court to impose proper sanctions against Defendants' Mr. E. Santena and Prison Officials.*

I seek monetary compensation for pain and suffering, punitive damages, cruel and unusual punishments, along with reimbursement for court filing fee, in the amount of \$200,000. please?

VI. Previous Lawsuits:

On these claims

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ____ No ✓

- Continuing page 5

help. Then I spoke to a man from O.S.I. name Mr. D. Eastman on 12/21/15 in Attica Corr. Facility saying "I was abusing the hot line," for me looking for help. Then I spoke to another man from O.S.I. name Mr. D. Miller on 1/31/17 when I was in Marcy C.N.Y.P.C. hospital, him saying "I was abusing the hot line too and my complaint was unsubstantiated" (not knowing what that meant before). Then I spoke to O.S.I. staff's interviews(in Sullivan), Miss. Cotto on Jan. 11, 2018 , and Ms. Horst on Mar. 14, 2018 on 9:13 Am about the same complaint, witness, and evidence. From me getting letters' response that are attack on the back of this page (8 letters'), from one I recently receive from Mr. Jason D. Effman on April 2, 2018 saying O.S.I. are re-opening the investigating



Corrections and Community Supervision

ANDREW M. CUOMO
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

March 27, 2018

Mr. Rudy Fleming
07A0122
Sullivan Correctional Facility
P.O. Box 116
Fallsburg, New York 12733-0116

Dear Mr. Fleming:

This is in response to your correspondence received in my office on February 28, 2018, in which you sought guidance regarding an item of evidence in connection with a prior complaint of sexual abuse. This matter was referred to the Office of Special Investigations and, as I believe you are aware, staff from Office of Special Investigations were in contact with and received the items from your family member.

I understand that the Office of Special Investigations will be reopening its investigation into your report.

Sincerely,

A handwritten signature in black ink, appearing to read "JDE".

Jason D. Effman
Associate Commissioner

JDE/jed
cc: Office of Special Investigations



Corrections and Community Supervision

ANDREW M. CUOMO
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

December 11, 2017

Mr. Rudy Fleming
07A0122
Sullivan Correctional Facility
P.O. Box 116
Fallsburg, New York 12733-0116

Dear Mr. Fleming:

This is in response to your recent correspondence received November 18, 2017, in which you complain about the response to your allegation of a sexual abuse made in May of 2015 while at the Sullivan Correctional Facility. The Office of Special Investigations completed an investigation into your allegation on July 6, 2017, determining that the allegation was unsubstantiated. An unsubstantiated investigation means an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred. Furthermore, you received notification from the facility Superintendent that the investigation was unsubstantiated and closed.

I am forwarding your letter to the Office of Special Investigations for review and any action they may deem appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read "JDE".

Jason D. Effman
Associate Commissioner

JDE/jed
cc: Office of Special Investigations



Corrections and Community Supervision

ANDREW M. CUOMO
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

August 9, 2017

Rudy Fleming
#07A0122
Sullivan Correctional Facility
P.O. Box 116
Fallsburg, NY 12733-0116

Acting Commissioner Annucci has asked me to respond to your letter regarding safety concerns at Sullivan Correctional Facility.

Please be advised that I have forwarded your letter to the Office of Special Investigations, Superintendent Keyser, Deputy Superintendent for Security Burnett, and Assistant Deputy Superintendent for Mental Health Garber for their review and appropriate action.

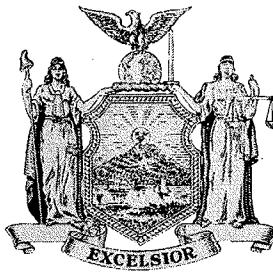
In regards to a transfer, please contact your Offender Rehabilitation Coordinator to discuss.

Sincerely,

A handwritten signature in black ink that appears to read "Bryan Hilton".

Bryan Hilton
Assistant Commissioner

Cc: William Keyser Jr., Superintendent – Sullivan Correctional Facility



STATE OF NEW YORK
OFFICE OF THE INSPECTOR GENERAL
OFFICE OF THE WELFARE INSPECTOR GENERAL
OFFICE OF THE WORKERS' COMPENSATION FRAUD INSPECTOR GENERAL

61 BROADWAY, SUITE 2100
NEW YORK, NEW YORK 10006
(212) 635-3150

EMPIRE STATE PLAZA
AGENCY BLDG. 2, 16TH FLOOR
ALBANY, NEW YORK 12223
(518) 474-1010

65 COURT STREET, 5TH FLOOR
BUFFALO, NEW YORK 14202
(716) 847-7118

CATHERINE LEAHY SCOTT
INSPECTOR GENERAL

July 11, 2017

Rudy Fleming 07A0122
C/O Auburn Correction Facility
135 State Street
P.O. Box 618
Auburn, NY 13024

NYSIG # 2200-316-2017

Dear Ms. Fleming:

The Office of the New York State Inspector General is in receipt of your complaint received on June 29, 2017.

After carefully reviewing the information provided, our office has referred this matter to executive management at the New York State Department of Corrections & Community Supervision, Office of Special Investigations. Any further information should be sent to the NYS Dept. of Corrections & Community Supervision, located at Building 2, State Campus, Albany, NY 12226. The Inspector General will not commence an investigation at this time.

Thank you for contacting the Office of the New York State Inspector General.

Very truly yours,

A handwritten signature in black ink, appearing to read "Leslie M. Arp".

Leslie M. Arp
Chief Investigator
Case Management Unit



**Central New York
Psychiatric Center**

ANDREW M. CUOMO

Governor

ANN MARIE T. SULLIVAN, M.D.

Commissioner

September 18, 2015

Mr. Rudy Fleming
DIN# 07A0122
Attica Satellite Unit
Attica Correctional Facility
P.O. Box 149, 639 Exchange St.
Attica, New York 14011

Mr. Fleming:

The Risk Management Department is in receipt of your letter dated August 22, 2015, addressed to the Office of Mental Health.

We have been in contact with OMH staff at Sullivan CF and informed that your allegations of abuse have been forwarded to DOCCS personnel, as DOCCS staff misconduct falls outside the purview of the Office of Mental Health.

We hope this information was helpful.

Sincerely,


Tammi Whittaker
Risk Management Specialist

CC: Unit Chief Sullivan CF
File

A FACILITY OF THE OFFICE OF MENTAL HEALTH

P.O. Box 300, Marcy, NY 13403 | (315) 765-3600 | omh.ny.gov



ANDREW M. CUOMO
Governor

Corrections and Community Supervision

ANTHONY J. ANNUCCI
Acting Commissioner

November 27, 2017

TO: Rudy Fleming 07-A-0122 EN 139
FROM: William Keyser, Superintendent (W)
SUBJECT: Your Letter Dated 11/25/17

A review of your disciplinary record indicates your last Tier 2 misbehavior report was 10/14/16 while at Auburn C.F. Therefore, your letter stating staff are writing tickets to retaliate against you are false. You are encouraged to go to program to better yourself.

WFK:az
cc: File



ANDREW M. CUOMO
Governor

Corrections and Community Supervision

ANTHONY J. ANNUNCI
Acting Commissioner

November 28, 2017

TO: Rudy Fleming 07-A-0122 EN-139
FROM: William Keyser, Superintendent *(P)*
SUBJECT: Complaint

You can write to OSI if you wish to speak to them. You do not need to make this request through me.

WFK:dm
cc: File



ANDREW M. CUOMO
Governor

Corrections and Community Supervision

ANTHONY J. ANNUCCI
Acting Commissioner

November 30, 2017

TO: Rudy Fleming 07-A-0122 EN-139
FROM: William Keyser, Superintendent *WD*
SUBJECT: Privileges

Your commissary privileges will be restored effective 12/1/17.

WFK:dm
cc: Disciplinary Lieutenant
E-North Officer
File

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendant's _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

C.. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ____ No ____

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendant's _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 8 day of April, 2018.

Signature of Plaintiff

Inmate Number

Institution Address

Rudy Fleming
07A0122
Sullivan Corr. Facility
P.O. Box 116
Fallsburg, New York
12733-0116

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and address.

I declare under penalty of perjury that on this 8 day of April, 2018, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Rudy Fleming

Rudy Fleming #0147
Sullivan Corrections
P.O. Box 116
Fallsburg, New York 12733

SULLIVAN



CORRECTIONAL FACILITY

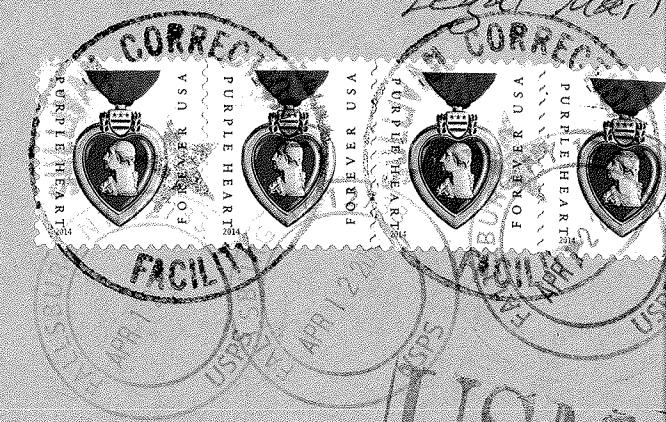
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04/12/2018

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Pro Se Office
U.S. District Court of the Southern
District of New York U.S. Courthouse
500 Pearl Street
New York, New York 10007-1312

AM 1170 AM 3:20